IN THE DISTRICT COURT OF CLEVELAND COUNTY
STATE OF OKLAHOMA

THE STATE OF OKLAHOMA, ex rel.,
Plaintiffs,
vs.
R.J. REYNOLDS TOBACCO COMPANY, et al.,
Defendants.

No. CJ-96-1499-L

Property of: Ness, Motley
Main PI File Room
Charleston, SC

* * * * * *

VIDEO DEPOSITION OF VANCE McSPADDEN
TAKEN ON BEHALF OF THE PLAINTIFFS
ON THE 8TH DAY OF OCTOBER, 1998
IN OKLAHOMA CITY, OKLAHOMA

* * * * * *

APPEARANCES:
FOR THE PLAINTIFFS:

Mr. David Riggs
RIGGS, ABNEY, NEAL, TURPEN
ORBISON & LEWIS
5801 North Broadway, Suite 101
Oklahoma City, OK 73118

Mr. Charles Mikhail
SCRUGGS, MILLETTE, BOZEMAN & DENT
P.O. Drawer 1425
Pascagoula, MS 39568-1425

Ms. Yasodhara Mohanty
ASSISTANT ATTORNEYS GENERAL
4545 North Lincoln, Suite 260
Oklahoma City, OK 73105

Reported By: Jody McAnally, CSR, RPR, RMR

http://legacy.library.ucsf.edu/tid/auq07a00/pdf
Digitized by the Internet Archive in 2014 http://www.industrydocuments.ucsf.edu/docs/shhl0001

FOR THE DEFENDANT PHILIP MORRIS COMPANIES:

Mr. Bob Tomlinson
Ms. Katherine Vaughn Reynolds
McKINNEY & STRINGER
101 North Broadway
Oklahoma City, OK 73103

FOR THE DEFENDANT TOBACCO INSTITUTE:

Mr. Benton J. Barton
GWINN & ROBY
4100 Renaissance Tower
1201 Elm Street
Dallas, TX 75270

FOR THE WITNESS:

Mr. Thomas J. Blalock
SELF, GIDDENS & LEES, INC.
2725 Oklahoma Tower
210 Park Avenue
Oklahoma City, OK 73102-5604

VIDEO TECHNICIAN:

Ms. Cheryl Coy

STIPULATIONS

It is stipulated that the deposition of VANCE McSPADDEN may be taken pursuant to agreement on October 8, 1998, before Jody McAnally, CSR, RPR, RMR.

It is stipulated that all objections to questions, except as to the form of the question, may be made at the time of the trial when said deposition is offered into evidence.

* * * * * *

00:30:40 MS. COY: Today is October 8th, 1998. This begins
00:30:50 the deposition of Vance McSpadden. The time is 00:30:52.
00:30:56 The court reporter is Jody McAnally with Professional
00:31:00 Reporters of Oklahoma City. The videographer is Cheryl Coy
00:31:03 with Proof Positive of Oklahoma City. If counsel will,
00:31:06 please, state their appearances for the records.
00:31:09 MR. MIKHAIL: The court reporter was putting
00:31:11 information on the record. Did you not hear her, Bob?
00:31:14 MR. TOMLINSON: No, I did not. But that's fine.
00:31:16 MR. MIKHAIL: I'm Charles Mikhail for the
00:31:18 plaintiffs.
00:31:20 MR. RIGGS: David Riggs for the plaintiffs.
00:31:21 MS. REYNOLDS: Katherine Vaughn Reynolds for
00:31:23 Phillip Morris.
00:31:24 MR. BARTON: Benton Barton for Tobacco Institute.
00:31:27 MR. BLALOCK: Tom Blalock on behalf of the

00:31:29 deponent Vance McSpadden.
00:31:36 MR. RIGGS: Bob, we can hear you fine. Let me see
00:31:41 if there's a volume control.
00:31:50 MR. TOMLINSON: Well, yeah. That's better. What
00:31:52 happened is Charles started to introduce himself and then it
00:31:56 went blank. I don't know if it's a short or what.
00:31:59 MR. BLALOCK: Bob, do you have your phone on a
00:32:02 speaker?
00:32:03 MR. TOMLINSON: You went blank again.
00:32:06 MR. BLALOCK: Bob, is your car phone on a speaker?
00:32:09 MR. TOMLINSON: No.
00:32:09 MR. BLALOCK: I think what's happened is your wind
00:32:11 noise in the background, the speaker phone is picking it up;
00:32:14 and it's not a duplex phone. It can only go one way at a
00:32:18 time. So if there's enough quiet here, the air noise is
00:32:22 coming through on this side and nothing's coming back to
00:32:25 you.
00:32:26 MR. TOMLINSON: Okay. I just put the antenna
00:32:29 down. Does that help any?
00:32:33 MR. BLALOCK: We can try. Does that work better.
00:32:36 MR. RIGGS: Bob, we can hear you fine. You
00:32:38 haven't cut out at all, but I don't know what the problem
00:32:40 is.
00:32:40 MR. TOMLINSON: Yeah. It must be that wind noise
00:32:42 thing.

00:32:44 MR. MIKHAIL: Okay.

VANCE McSPADDEN,

being first duly sworn, was examined and testified as follows, to wit:

DIRECT EXAMINATION

BY MR. MIKHAIL:

00:32:56 Q Good morning Mr. McSpadden. We met earlier before
00:32:58 we got started.
00:32:59 A Yes.
00:32:59 Q But for the record I'm Charles Mikhail. I
00:33:03 practice law out of Pascagoula, Mississippi, and I'm here to
00:33:06 take your depositions on behalf of the plaintiffs. Would
00:33:09 you give me the title of the job that you presently hold.
00:33:15 MR. BLALOCK: Before we get started, Charles, I
00:33:18 just want to make sure that we have an understanding
00:33:20 concerning the rules of this deposition. Are we reserving
00:33:24 all objections except as to the form of question?
00:33:26 MR. MIKHAIL: That's right.
00:33:27 MR. BLALOCK: I want to make sure it's clear that
00:33:29 this deposition is being taken pursuant to subpoena issued
00:33:31 by the State of Oklahoma and subject to the limitations that
00:33:36 have – and reservations that have been made in our letter
00:33:42 to Mr. Riggs and in the July 14 correspondence from
00:33:45 Mr. Riggs.
00:33:46 MR. MIKHAIL: That's right.

http://legacy.library.ucsf.edu/tid/auq07a00/pdf Digitized by the Internet Archive in 2014 http://www.industrydocuments.ucsf.edu/docs/shhl0001

Page 6

MR. TOMLINSON: For some reason I'm not hearing a thing so I may as well just disconnect and see you when I get there.

MR. MIKHAIL: That's fine. That's my understanding. Of course, privileged matters, too, are a part of the objections that can be made at the deposition.

Q (BY MR. MIKHAIL) Tell me the title of the job that you hold, Mr. McSpadden.

A I'm the executive director of the Oklahoma Petroleum Marketers Association and Association of Convenience Stores.

Q Are those two associations or one?

A One.

Q That's a long name for it.

A Yes, it is.

Q Can we call it maybe the Petroleum Marketers Association during the deposition so that we don't have to --

A Sure. Call it anything.

Q It would just be easier. The reason I had asked you that is I saw some documents that referred to it as Oklahoma --

A It was the old -- old name. We've changed it to kind of more represent our members.

Q Okay. All right. That's fair enough. How long

Page 7

have you been the executive director of that organization?

A Seven years. Little over seven years.

Q And in your capacity as executive director, are you the person at the association who is responsible for lobbying the legislature on issues that affect your organization?

A Yes.

Q Okay. Is there anyone else with the association either as an employee or on a contract basis that lobbies for the association other than yourself?

A We have a contract lobbyist, yes.

Q And who is that?

A Clayton Taylor.

Q Clayton Taylor?

A Uh-huh.

Q And how long has this contract lobbyist worked for the association?

A Probably three years, three to four years.

Q Okay. Prior to that were you the only one since you had started with the association?

A No. We had another contract lobbyist, also, since mine --

Q So approximately three to four years ago someone other than Clayton Taylor was doing the lobbying?

A Uh-huh, uh-huh.

Page 8

Q Or contract lobbying?

A Right.

Q And who was that?

A His name was Jim Mills. He no longer does contract lobbying, but --

Q Okay. All right. So during the time that Jim Mills did some contract lobbying for the association since the time that you have been with the association and Clayton Taylor, both you and the contract lobbyist would work together on lobbying issues?

A Uh-huh, uh-huh.

Q Just for the record, make sure that you say yes or no because it's hard for the court reporter to pick it up.

A Yes.

Q Have you given depositions before?

A Only over the phone.

Q Over the phone. Okay. They're a lot easier in person, I think. It's tough to have a telephone conversation.

A Okay.

Q Tell me just very briefly what type of educational background you have, where you went to high school, college and a -- let's start with that.

A Muskogee High School, graduated in 1962, attended the University of Oklahoma, graduated there.

Page 9

Q And what year did you graduate from the university?

A Should have in '66, but I had a little extended educational -- January of '68.

Q I don't mean to flatter you, but you look younger than that having graduated from college in '66. So -- and what was your major in college?

A Business marketing.

Q Did you go to graduate school?

A Couldn't. No, I didn't go to graduate school, no.

Q I just wanted to know your educational background beyond that.

A No.

Q And after you finished the university with a business concentration, what type of employment did you get?

A I went to work in sales with Phillips Petroleum Company.

Q Okay.

A In St. Louis. Then I --

Q How many years were you with them?

A Probably five years. Went back to Tahlequah, Oklahoma, in business with a family member in the same type -- it was a Texaco distributorship.

Q Okay.

A Then -- for about five years; and then went to

http://legacy.library.ucsf.edu/tid/auq07a00/pdf
Support provided by the Industry Documents Library: http://www.industrydocuments.ucsf.edu/docs/shhl0001

Page 10

00:37:57 Muskogee, Oklahoma, where I graduated high school, where I
00:38:02 grew up. Same kind of business, a Texaco wholesaler for six
00:38:06 years, probably. And then moved to Oklahoma City and sold
00:38:09 service station equipment to people that I represent now.
00:38:13 So I've been in this industry probably 30 years.
00:38:18 Q For some time.
00:38:18 A Yeah. Long time.
00:38:20 Q Okay. And you became executive director with the
00:38:24 Petroleum Marketers Association, what, '91?
00:38:27 A '92. February, '92.
00:38:29 Q February, '92?
00:38:31 A Uh-huh.
00:38:31 Q Who was the executive director before you joined
00:38:33 the association? If you know.
00:38:37 A I'm trying to think of his name. There were
00:38:40 several. And over a period of time I don't -- Herb
00:38:45 Broderick was the executive director for probably four
00:38:48 years, and then there was one that lasted about six months
00:38:53 so -- I can't think of his name.
00:38:55 Q Okay. Well, that's fine. But it sounds to me
00:38:57 that from your employment background, that you have at least
00:39:01 certainly worked in the business and have been very familiar
00:39:04 with the petroleum marketing business and convenience stores
00:39:07 for a number of years prior to your joining as executive
00:39:11 director in '92. Would that be a fair statement?

Page 11

00:39:13 A Uh-huh.
00:39:14 Q Why don't you say yes so the record --
00:39:17 A Yes.
00:39:17 Q I'm sorry to have to keep telling you.
00:39:19 A That's all right.
00:39:20 Q Tell me, Mr. McSpadden, how did it come about,
00:39:23 under what circumstances did you become executive director?
00:39:26 A I had been on the executive committee or the board
00:39:30 of directors of the association for, I guess, in the early
00:39:35 '70s and thought this might be something I would like to do.
00:39:39 I applied for it and -- and got the job.
00:39:43 Q Okay. You were on the board of directors of the
00:39:45 Petroleum Marketing Association or its predecessor name?
00:39:47 A Yes, yes.
00:39:48 Q Okay. And for how many years in the '70s?
00:39:51 A Probably four, five. And I can't tell you what
00:39:56 years, but --
00:39:57 Q But it was in the '70s?
00:39:59 A Uh-huh.
00:40:00 Q What about in the years immediately prior to your
00:40:03 becoming executive director in '92? Were you on the board?
00:40:06 A No.
00:40:08 Q Okay. So there was a lapse of time from the time
00:40:09 you were on the board and then from the time you applied for
00:40:11 the job?

Page 12

00:40:12 A Uh-huh.
00:40:12 Q I hate to ask you again.
00:40:14 A Yes, yes.
00:40:14 Q But it's hard for them to take down sometimes.
00:40:18 A Always been involved with the association as --
00:40:21 well, I worked for a company that sold service station
00:40:25 equipment to members.
00:40:27 Q Okay.
00:40:28 A To wholesalers or marketers, and I kept my
00:40:32 association with OPMA or whatever it -- we want to call it
00:40:36 today.
00:40:36 Q Okay.
00:40:38 A But that's -- and thought that might be something
00:40:40 I would want to do and so -- yeah, it's worked out fine.
00:40:44 Q Okay. Well, prior to you becoming executive
00:40:47 director in '92, did you have any experience or did you do
00:40:50 any lobbying of the legislature --
00:40:53 A No.
00:40:53 Q -- on the issues of concern to OPMA?
00:40:55 A No, sir.
00:40:56 Q What other duties do you have as executive
00:41:02 director other than being involved in lobbying the
00:41:05 legislature on issues that affect the organization?
00:41:07 A Membership, membership services. We use the
00:41:15 association to -- insurance purposes to use our group as a

Page 13

00:41:27 -- I guess for -- for a better price for the member.
00:41:32 Q For group insurance. Yeah.
00:41:33 A We do it on several different items. Maybe
00:41:38 long-term, short-term disability. We do it on telephone.
00:41:43 pay phone revenue because we can bring a large number of pay
00:41:46 phones or whatever we want to do to the table, and -- most
00:41:50 associations do. It's non-dues revenue.
00:41:55 We have trade shows, we have conventions, we have
00:41:58 seminars that I'm responsible for. So -- and lobbying takes
00:42:02 up a lot of time during session, of course.
00:42:05 Q Right. How many employees are involved in OPMA?
00:42:09 And let's just say since you've been executive director.
00:42:13 You probably don't know a lot of the details before that
00:42:14 but since you have been executive director, about how many
00:42:17 employees does OPMA --
00:42:19 A There's three including myself.
00:42:21 Q Would that be -- do you have a secretary?
00:42:23 A We don't call her a secretary. She's the director
00:42:26 of -- she runs the office. She has been there 20 years.
00:42:29 Then we have a -- we have a secretary, I guess, that's --
00:42:35 Q Just assists her?
00:42:36 A Hasn't been there a long time. Right.
00:42:39 Q What is the first person's name that you said is a
00:42:42 director?
00:42:42 A Connie Henderson.

http://legacy.library.ucsf.edu/tid/auq07a00/pdf
Support provided by the Industry Documents Library: http://www.industrydocuments.ucsf.edu/docs/shhl0001

Page 14

00:42:43 Q Connie Henderson. And what is her title? Or does
00:42:47 she have a title?
00:42:48 A Whatever she wants to be.
00:42:49 Q The boss, huh?
00:42:51 A Uh-huh. I guess just -- I guess my assistant or
00:42:57 whatever.
00:42:57 Q Okay. But there's no specific title like yours,
00:43:00 executive director?
00:43:01 A No, no, huh-uh.
00:43:02 Q All right. Are you a registered lobbyist,
00:43:08 Mr. McSpadden?
00:43:09 A Yes.
00:43:10 Q And have you been a registered lobbyist since you
00:43:12 became executive director?
00:43:14 A Yes.
00:43:14 Q Were you a registered lobbyist prior to becoming
00:43:19 executive director of OPMA?
00:43:21 A No.
00:43:21 Q Since becoming a registered lobbyist, have you
00:43:26 lobbied on behalf of any other organization other than OPMA?
00:43:30 A No.
00:43:31 Q And let me clarify my question so you won't -- I'm
00:43:34 not talking about your organization working on issues of
00:43:37 similar interest with other lobbying groups. I'm talking
00:43:40 about officially have you been a lobbyist for any

Page 15

00:43:43 organization or group other than OPMA?
00:43:46 A No.
00:43:46 Q Okay. One of the things that your counsel and I
00:43:54 were talking about earlier about the document request that
00:43:57 was made to us, just for the record, Tom, I'm going to go
00:44:03 ahead and read the document request in conjunction with the
00:44:06 letter of understanding, just the portion itself of what
00:44:09 documents are contained because I was given a set of
00:44:12 documents that were produced to David Riggs' office last
00:44:15 week.
00:44:16 The document request reads: "All documents
00:44:20 relating to your lobbying activities on behalf of" -- I'm
00:44:24 sorry -- "on behalf or for the benefit of or in any way
00:44:29 relating to the tobacco industry or relating to tobacco in
00:44:33 the State of Oklahoma between the dates of January 4th,
00:44:36 1954, and August 22nd, 1996, with the exception of
00:44:41 information about amounts of money you have been paid by
00:44:44 your clients, your expense accounts and any specific
00:44:48 expenditures you have made in Oklahoma in connection with
00:44:50 lobbying before the legislature or any state agency or
00:44:54 regulatory body."
00:44:55 Does that language sound familiar to you about
00:44:57 what documents you were to produce?
00:44:58 A Uh-huh.
00:45:00 Q Could you say yes.

Page 16

00:45:01 A Yes. I'm sorry.
00:45:03 (Ms. Mohanty joined the proceedings.)
00:45:03 Q (BY MR. MIKHAIL) You're going to get --
00:45:04 A Quit shaking your head like --
00:45:06 Q You're going to get mad at me by the time this is
00:45:09 over.
00:45:09 A That's what Tom said, I would get mad at you. No,
00:45:13 he didn't.
00:45:13 Q The documents that you produced and, I assume,
00:45:15 turned them over to Mr. Elder; is that correct?
00:45:19 A Yes, yes.
00:45:19 Q Okay. Are they all of the documents that are
00:45:22 responsive to this document request in the subpoena?
00:45:25 A Yes.
00:45:26 MR. BLALOCK: Just so the record's clear, you
00:45:28 referred to me as Mr. Elder. I'm Mr. Blalock. There's a
00:45:33 Tom Elder that represents a couple folks here.
00:45:35 MR. MIKHAIL: I'm sorry. Forgive me. I had heard
00:45:38 the name mentioned. Mr. Blalock. I'm sorry.
00:45:46 MR. BLALOCK: That's this afternoon's deposition.
00:45:48 MR. MIKHAIL: Is it this afternoon?
00:45:51 MR. BLALOCK: No.
00:45:51 MR. MIKHAIL: It's tomorrow afternoon, isn't it?
00:45:53 Q (BY MR. MIKHAIL) When was the Petroleum Marketing
00:45:55 Association or its predecessor by different name -- when was

Page 17

00:46:00 it founded? Do you know?
00:46:01 A I think in the late '50s, 1950 something. I don't
00:46:07 know. It's over 40 years old so --
00:46:09 Q Okay. And let's take just in the last 15 years.
00:46:18 And it may be the same for the 40 years, I don't know. But
00:46:21 for the last 15 years, what does the membership of OPMA
00:46:25 consist of? I mean, who are the members of that group? And
00:46:30 I don't mean individual names, but generally.
00:46:31 A The business they're in?
00:46:33 Q Uh-huh.
00:46:34 A I'm trying to relate it to where you would notice.
00:46:38 They market gasoline. They market diesel. From Pascagoula
00:46:45 that -- you may see the tank wagons, the small gasoline
00:46:48 trucks delivering to farm accounts. It's -- it's the
00:46:53 handling of petroleum products.
00:46:55 Q Would that include convenience stores that sell
00:46:59 gasoline?
00:46:59 A Yes, uh-huh. Some of my members may own them.
00:47:02 They may lease them. May just supply the fuel to them or
00:47:07 may own and operate them. So it's --
00:47:10 Q Okay. So someone could be leasing petroleum,
00:47:14 market -- or like a convenience store that sells gasoline
00:47:17 and can be a member -- is eligible for membership?
00:47:20 A Sure, sure.
00:47:21 Q And someone could actually own it and become a

PROFESSIONAL REPORTERS
(405) 272-1006 (800) 376-1006
http://legacy.library.ucsf.edu/tid/auq07a00/pdf
Support provided by the Industry Documents Library: http://www.industrydocuments.ucsf.edu/docs/shhl0001

Page 18

member; correct?
A We hope, yes. Uh-huh.
Q Are you saying that someone that supplies the convenience stores that sells gasoline with the gasoline also can become a member?
A Uh-huh, uh-huh.
Q And what type of group would that be? I mean an oil company can't do it. It would be a wholesaler, correct, or a distributor?
A There's no really name. It used to be jobbers; it used to be distributors. Now we call them marketers because the way I explained it is so varied. There's no black and white term or you can't give a definition that would represent all of them.
We even open up to retailers that -- that may own their station that we would represent them at the -- at the State Capitol on certain items. Anything about their business we -- we get involved in.
Q Okay. Is it fair to say that it has to do something with petroleum or gasoline or something? I mean, like a retail grocer that doesn't sell gasoline, can they become a member of your organization?
A Not necessarily. They would probably belong to the grocers association.
Q But that's generally the common denominator of

Page 19

membership of your organization as a general rule, that they have some involvement with petroleum?
A They come from petroleum products, uh-huh.
Q Let me ask you the question I was starting to. I mean, an oil company can't join --
A Oil company is a supplier member. They -- we -- we have Phillips, Texaco, Total, all of them that market in Oklahoma, we give them an opportunity to join our association as a supplier member.
Q As a supplier member?
A Uh-huh.
Q And are they -- are they actually members in Oklahoma?
A Uh-huh, uh-huh.
Q Only of the large companies, suppliers?
A Yes, they are.
Q Like Texaco, Chevron?
A Chevron not because they don't market in -- they may have production in Oklahoma, but not marketing.
Q Okay. Can you name me a handful of who the ones are that are large suppliers?
MR. BLALOCK: We're going to object to that question, Mr. Mikhail, on the basis that we have been concerned all along about identifying who our specific members are. I think those members all have the right to

Page 20

freely associate, and I think it's their right to waive or not waive, and we're not going to waive it on their behalf.
MR. MIKHAIL: That's fine. Tom, I have no problem with that.
Q (BY MR. MIKHAIL) Are any members -- any manufacturers of tobacco products eligible for membership in OPMA?
A Yes.
Q Could you identify them?
MR. BLALOCK: Are you asking him to identify members of OPMA?
MR. MIKHAIL: Who are defendants in this lawsuit. Manufacturers of tobacco products. Let me name them and maybe that would be easier.
Q (BY MR. MIKHAIL) Phillip Morris?
A No.
Q Lorillard?
A No.
Q Brown & Williamson?
A No.
Q R.J. Reynolds?
A Yes.
MR. MIKHAIL: I don't think that's beyond the scope of -- yeah. Okay. I'm trying to make sure that we live to the spirit and the letter of the agreement.

Page 21

MR. BLALOCK: I think they're in the suit.
MR. MIKHAIL: Yeah. They're in the suit.
THE WITNESS: And we would like them all to join, and we've given them the opportunity, but they're not.
Q (BY MR. MIKHAIL) But R.J. Reynolds is a member?
A Just recently, yes.
Q Okay. How recent?
A Last month.
Q Okay.
MR. BLALOCK: And that's outside the scope of the deposition, I believe. The time period we're concerned with is only through August 26, 1996.
Q (BY MR. MIKHAIL) Has R.J. Reynolds been a member of the OPMA prior to its recent membership?
A No.
Q Has any of the other -- have any of the other manufacturers that I listed been members at any time prior to August, 1996?
A No.
Q What about the Tobacco Institute?
A No.
Q Is it -- I'm sorry. Is it currently a member?
A No.
Q Was it a member at any time prior to August, 1996?
A No.

http://legacy.library.ucsf.edu/tid/auq07a00/pdf
Support provided by the Industry Documents Library: http://www.industrydocuments.ucsf.edu/docs/shhl0001

Page 22

00:51:49 Q Could you explain to me, if you can, how R.J.
00:52:01 Reynolds -- and I know you would like them to be members --
00:52:05 but are members when they don't sell gasoline products or
00:52:07 supply gasoline products or anything of the sort.
00:52:09 A Because our people -- our convenience store
00:52:14 operators, our members sell an awful lot of them -- tobacco
00:52:19 in the convenience stores. We feel like if we sell -- if
00:52:23 it's involved in our association, whether it's low-point
00:52:28 beer or wine or liquor in some other states, we -- we try to
00:52:35 do it responsibly. We ask their guidance on this.
00:52:40 Of course, we -- you mentioned the Tobacco
00:52:43 Institute. We've used them on the "We card" program on
00:52:47 proper ID and this and their training practices. But if --
00:52:53 if we -- if our people sell it and it's a restricted
00:52:58 product, especially, then we need to get involved as much as
00:53:01 we can on -- to do it responsibly.
00:53:05 Q Okay. Why would you as executive director of OPMA
00:53:09 find it in your association's interest to have R.J. Reynolds
00:53:13 as a member?
00:53:14 A For support for -- for sponsorships of seminars,
00:53:19 for golf tournaments, for conventions, for anything that we
00:53:23 do to bring our members together.
00:53:25 Q What about financial support? Do they provide
00:53:28 financial support? They, I mean R.J Reynolds.
00:53:32 MR. BLALOCK: You're talking about from the period

Page 23

00:53:33 from August 26th backward to '55; right?
00:53:37 Q (BY MR. MIKHAIL) No. Actually I'm not talking
00:53:38 about any time period. I'm talking in general terms as a
00:53:42 principal, why would it be in the interest of OPMA to have a
00:53:45 tobacco manufacturer whose products are sold in the
00:53:47 convenience stores but doesn't sell gasoline being a member
00:53:50 of the organization? You said that you would like them all
00:53:52 to join. What would be the interest that would be advanced
00:53:54 of OPMA to have a tobacco manufacturer --
00:53:57 A Our bottom line.
00:53:58 Q Okay.
00:54:00 A We have -- you mentioned major suppliers. They --
00:54:03 they help us sponsor meetings, conventions, whatever, to --
00:54:11 to help us survive.
00:54:15 Q Okay. Prior to RJR becoming a member recently --
00:54:20 and I know that's outside the period that we're talking
00:54:22 about, but if I understand your testimony, none of these
00:54:25 tobacco manufacturers nor the Tobacco Institute were members
00:54:28 of the association.
00:54:29 A That's right.
00:54:30 Q That's correct. Well, did any of them -- though
00:54:32 they were not members from 1954 to 1996, August, '96, did
00:54:39 they -- nevertheless, did any of them, nevertheless, provide
00:54:44 financial support and seminars and golf tournaments --
00:54:47 A No.

Page 24

00:54:47 Q -- to your association?
00:54:49 A No.
00:54:49 Q But that's just in a general term what you would
00:54:52 find is an interest of yours if, in fact, they were members?
00:54:55 A Sure.
00:54:57 Q Do you have -- like, is there some document that
00:54:59 sets out eligibility for membership, or is it pretty
00:55:03 informal?
00:55:03 A It's informal.
00:55:05 Q Okay. There's no -- there's no set of rules that
00:55:07 says you can become a member if you meet 1, 2, 3, 4, 5, 6,
00:55:11 7? No such thing?
00:55:12 A No.
00:55:13 Q No? Are there levels of membership in OPMA? In
00:55:19 other words, are there -- is there a general membership and
00:55:26 -- as opposed to a voting membership? Or exactly --
00:55:29 describe to me the membership structure of the organization.
00:55:32 A By law, all members are voting members. We call
00:55:38 them associate members, which your tobacco companies would
00:55:40 be, your equipment sales. Like, I sold service station
00:55:45 equipment. The company that I worked for was an associate
00:55:48 member.
00:55:49 Q Okay.
00:55:49 A We supply product that the marketer needs, whether
00:55:53 it's tanks or tobacco or groceries or pop or whatever, beer.

Page 25

00:55:58 The marketer member is -- you have different classes. Not
00:56:04 classes, but different levels. You have a minimum -- and
00:56:07 it's based on yearly volume of -- of gallons of gasoline or
00:56:13 diesel. The higher the gasoline volume, the higher we feel
00:56:17 like we represent them, they're exposed more, we represent
00:56:22 them better at the higher level.
00:56:25 Q Is there any level higher than that?
00:56:28 A No.
00:56:29 Q Okay. So two levels of membership, associate
00:56:32 membership? What did you call the second one?
00:56:34 A We have a marketer membership.
00:56:36 Q Marketer membership.
00:56:38 A We've opened it to C store membership where the
00:56:41 number of stores, one store up to four pay a -- a certain
00:56:45 price. We feel like we -- we have newsletters that we send
00:56:49 out, magazines that -- that represent their -- their
00:56:52 interests.
00:56:53 Q Okay.
00:56:54 A We have a marketer membership, we have an
00:56:58 associate membership. We have a supplier membership I
00:57:01 mentioned before and a C store membership. We've also put
00:57:05 in -- have another category of lube operators, quick lubes
00:57:10 that do vehicle inspection. We're trying to pass some
00:57:14 legislation there.
00:57:15 Q Okay. Are the dues amounts different for the

http://legacy.library.ucsf.edu/tid/auu07a00/pdf Digitized by the Internet Archive in 2014 http://www.industrydocuments.ucsf.edu/docs/shhl0001

Page 26

00:57:20 1 different types of membership?
00:57:21 2 A Uh-huh. Yes.
00:57:22 3 Q And just tell me what is the lowest amount and
00:57:25 4 then what is the highest amount?
00:57:27 5 A Three hundred is the lowest for a -- an associate
00:57:30 6 member or a minimum marketer member.
00:57:33 7 Q Okay. Is that annual dues?
00:57:35 8 A Yes, sir.
00:57:35 9 Q Okay.
00:57:36 10 A Twelve hundred a year annually is -- is the
00:57:39 11 highest one.
00:57:40 12 Q Okay. Is that the -- the source of funding for
00:57:48 13 the activities of the association, the dues?
00:57:52 14 A No. It's probably 40 percent, 45 percent of our
00:57:59 15 budget.
00:57:59 16 Q Without getting into anything that is privileged
00:58:02 17 or private, just general sources of the remainder of the
00:58:09 18 funding, where does that generally come from, 60 percent?
00:58:11 19 A Conventions, seminars, other things I've
00:58:13 20 mentioned.
00:58:14 21 Q And those are things sponsored by various, what,
00:58:17 22 corporations?
00:58:17 23 A As a rule, yes.
00:58:19 24 Q Okay. And are they generally membership -- member
00:58:22 25 corporations -- member corporations?

Page 27

00:58:24 1 A Yes.
00:58:24 2 Q Do you have corporations that are not members --
00:58:27 3 don't identify them, but corporations that are not members
00:58:29 4 that have over the years --
00:58:30 5 A No.
00:58:31 6 Q No. Okay. Do you have a board of directors of
00:58:37 7 the organization?
00:58:37 8 A Yes, yes.
00:58:38 9 Q And how many are on the board of directors?
00:58:40 10 A Fifteen.
00:58:43 11 Q Okay. And what are the eligibility requirements?
00:58:47 12 I mean, how do you go about selecting the board members?
00:58:50 13 A We have a selection committee each year made up of
00:58:55 14 our executive committee plus a few past presidents that --
00:59:00 15 that sit in on this and -- depending on their participation
00:59:04 16 over the year and if their -- their interests, everything
00:59:07 17 else, then we -- and attendance at different meetings.
00:59:10 18 Q Are the members of the board of directors, as a
00:59:13 19 general rule, from organizations or entities that are
00:59:17 20 members of OPMA or are there some --
00:59:19 21 A Have to be.
00:59:20 22 Q They have to be?
00:59:21 23 A Uh-huh.
00:59:21 24 Q Okay. Decision making, if OPMA is going to take a
00:59:30 25 position on a piece of legislation that appears -- at least

Page 28

00:59:35 1 from monitoring what's going on in the legislature, appears
00:59:40 2 to be of interest to OPMA, what is the decision making
00:59:45 3 process that takes place to -- for the organization to take
00:59:52 4 a position one way or the other on the piece of legislation?
00:59:54 5 A We -- we have a legislative committee -- not
01:00:00 6 large, but we have a legislative chairman -- a contract
01:00:03 7 lobbyist and myself sit down and -- and go over whether we
01:00:08 8 want to be active, we want to introduce legislation, we want
01:00:14 9 to -- how we want to arrive at this thing. We present it to
01:00:18 10 the executive committee, and we make a decision there.
01:00:20 11 Q Okay. So you and the contract lobbyist for OPMA
01:00:27 12 along with -- did you call somebody a legislative --
01:00:29 13 A Chairman.
01:00:30 14 Q Chairman?
01:00:31 15 A Uh-huh.
01:00:31 16 Q Who is the current legislative chairman?
01:00:35 17 A Jack Griffith.
01:00:36 18 Q Was he with the organization when you joined in
01:00:39 19 1992?
01:00:40 20 A Uh-huh. Yes, he has been.
01:00:42 21 Q All right. And has he been with the organization
01:00:45 22 from '92 to '96 through the period that we're talking about,
01:00:50 23 August, '96?
01:00:51 24 A He has been a member. He is a marketer, but he
01:00:53 25 has been a member of the association for a long time.

Page 29

01:00:55 1 Q But he's -- has he acted in the capacity or worked
01:00:59 2 in the area of legislative field?
01:01:08 3 A He has been involved in his local politics, his --
01:01:10 4 yeah, I guess ever since he has been in business.
01:01:12 5 Q Okay. All right. So the three of you or two of
01:01:15 6 you, if the third person's not around, feel or come to some
01:01:20 7 conclusion that a particular piece of legislation pending in
01:01:23 8 the legislature is of interest to your organization. What
01:01:27 9 do you do next? You said you take it to the executive
01:01:29 10 committee?
01:01:29 11 A Take it to the executive committee, explain what
01:01:33 12 it -- what the piece of legislation is or how -- if we're
01:01:36 13 going to introduce legislation or whatever it may be. If
01:01:40 14 it's of interest to our industry, we monitor all the
01:01:45 15 legislation out there, try to. And then we -- we ac
01:01:50 16 accordingly.
01:01:51 17 Q Okay. So as a general rule -- again, I know there
01:01:54 18 are exceptions to everything. But as a general rule, you
01:01:57 19 and your contract lobbyist are generally the initiators of
01:02:01 20 any legislation that you want to introduce that affects your
01:02:05 21 organization and then it goes up to the executive committee?
01:02:08 22 A And we have a member along with us, the
01:02:11 23 legislative chairman.
01:02:12 24 Q The legislative chairman.
01:02:14 25 A Then we'll put our heads together and then we'll

http://legacy.library.ucsf.edu/tid/auq07a00/pdf
Digitized by the Internet Archive http://www.industrydocuments.ucsf.edu/docs/shhl0001

Page 30

introduce it to the executive committee for approval or disapproval.
Q Let's take it piece by piece. Let's take it for legislation that you would want to introduce or have introduced, since you all are not members of the legislature. You would take that idea or that notion to the executive committee and the executive committee would vote and decide whether or not it's a piece of legislation that you want to have introduced; correct?
A Correct.
Q All right. Is there anyone else that has to approve of the decision of the executive committee?
A We -- we try to involve the whole board of directors now. And we would do that, also. We want to make sure that everybody's on the same page, so to speak, before --
Q Does the executive committee report to the board of directors?
A No.
Q And say we've decided to have a certain bill introduced into the legislature before they do it, before they --
A We let them know what the decision's made and why. The board of directors -- like I said, the board of directors are -- we've got, I guess -- I don't know. The

Page 31

executive committee is made up of the chairs, the president, vice-president, the secretary. And then the board of directors we have X number of those. We all try to make the decision, but sometimes the executive committee is there and makes the decision.
Q Is it fair to say that the board has delegated to the executive committee that decision making? If it's not, tell me no.
A Probably, yes, sir.
Q Do you recall any specific instances when the executive committee decided to have a particular piece of legislation introduced into the legislature that the board of directors disagreed with and said, "No, stop, don't do it"?
A No.
Q And once you decide -- once the executive committee decides to have a piece of legislation introduced, do you and/or Mr. -- Clayton?
A Clayton Taylor.
Q -- Mr. Taylor, then have a particular legislator introduce a bill to that effect?
A Yes. That's the procedure.
Q Okay. Do you actually provide -- when I say you, you or Mr. Taylor. Do you provide the legislator with a draft bill or language, or do you tell them what you want?

Page 32

A Tell them what we want.
Q And do you know what the legislator does after that? Does he contact the drafting office and have something drafted?
A Or we get the staff attorney involved and sit down with them and tell them what -- what, why, when, where and et cetera. What we would like.
Q Okay.
A That's the way we've done it in the instance -- an example that I'm thinking about.
Q Okay. At any juncture after you decide what legislation that you feel would be necessary in the interests of your organization and the executive committee approves it and you take it to a legislator, sit down, have a staff attorney or a draftsman from the office at the legislature help put it together. At any time in that process is anything presented to the membership --
A Sure.
Q -- of the organization?
A As soon as we decide to make a decision, we let the membership know what we're doing.
Q Okay. At what juncture do you do that?
A As soon as we decide to take an active approach on this or to introduce legislation.
Q So as soon as the executive committee makes the

Page 33

decision?
A Yes.
Q Is it submitted -- I'm not suggesting you have to. I'm just asking.
A Uh-huh.
Q Do you get the membership to vote on whether or not the executive committee's action is to be implemented?
A No. Because we feel like the executive committee is representative of the membership --
Q Of the membership.
A -- on this and it's either detrimental to our industry -- the one I'm thinking about was detrimental to our industry, and we had to do something fast. But we need to let our membership know because they're the ones that are going to help us.
Q I understand. They help with letter writing and phone calls; is that right?
A Uh-huh, yes.
Q Now, let's go to the issue of legislation that's already been introduced in the legislature by, you know, someone else other than yourself.
A Uh-huh.
Q Is it fair to say -- is it correct to say that you and/or Mr. Taylor and your legislative chairman monitor what bills are being introduced in the legislature and spot what

http://legacy.library.ucsf.edu/tid/auq07a00/pdf Digitized by the Industry Documents Library http://www.industrydocuments.ucsf.edu/docs/shhl0001

Page 34

bills may be of interest to your organization, either you're against it or you're for it?
A Yes.
Q And what is the process that takes place once you spot something that you feel is of interest to your organization that was not introduced by you?
A Same as when we introduce legislation. We get to the executive committee and make a decision whether to oppose it, support it, however we want to do this.
Q Okay.
A How it's going to affect our industry and our membership.
Q Okay. Has the tobacco industry -- and when I say the tobacco industry, I'm talking about the tobacco defendants in this case, the manufacturers of tobacco -- or the Tobacco Institute in the time period that you worked for OPMA as executive director from 1992 until August of '96, did any representative of those entities or a lobbyist for those organizations contact you, contact your organization, whether it's through you or Mr. Taylor or the legislature and ask for your assistance in either supporting a piece of legislation or defeating a piece of legislation that the tobacco industry was interested in in the legislature?
MR. BLALOCK: Object to the form.
Q (BY MR. MIKHAIL) I know it was a long question,

Page 35

but I'm trying to get it all out.
MR. BARTON: Multi varies.
MR. MIKHAIL: I understand. I agree with you, I just -- do you understand the question, Mr. McSpadden?
THE WITNESS: Uh-huh. We deal with all lobbyists at the Capitol. You have to. There's 2,000 bills introduced. You can't read them all. We visit. If it's -- if it's to our benefit to support it or to object to it, then we'll do that.
Sometimes their legislation isn't favorable to my members, and that's who I'm representing out there. Even though we sell tobacco products, we need to do it responsibly. And we'll -- we'll make our decision -- and during -- you know, through the process that we mentioned before.
Q (BY MR. MIKHAIL) You described.
A But as far as being approached by them, we're approached by them every day. That's -- that's part of the process.
Q Okay. But since you've been executive director all the way up until August of '96 -- because that's the time period that we're working under --
A Uh-huh.
Q Can you tell me what specific issues that the tobacco industry approached you about that wanted your help

Page 36

on that were pending before the legislature?
A I don't remember the specific details.
Q Nothing stands out this morning?
A No, no.
Q Let me see if I can -- okay. I'm sorry.
A No, they don't.
Q Okay. Let me ask you this: Have you been approached -- in the time period that we're talking about, have you been approached by the tobacco industry or their lobbyist, anyone representing the tobacco interests, and ask your assistance on defeating any proposed tax increases on tobacco products?
A I don't remember the time. I know there was one where the federal government was coming down with a 50 cent tax or a dollar tax per pack which would have been very detrimental to my convenience store people which covers a majority of my members.
The reason being even if it was a state tax, would even -- any kind of tax would have been bad for us and we would have tried to defeat it because the Native Americans here in Oklahoma with the -- as many smoke shops as they have don't pay the state tax.
Q I understand.
A It just broadens our -- the playing field just gets more and more uneven.

Page 37

Q Okay. But let's stick with the legislature and not the proposed 50 cent or dollar increase which had to do with the FDA and all of the other --
A That's the only one I remember.
Q I'm talking about the actual bill in the Oklahoma legislature proposing a tax increase on tobacco products in which the tobacco industry contacted you and asked your help on defeating.
A On state tax?
Q On a state tax.
A I don't remember the specific one; but if it was to increase the state tax, we would have joined the tobacco companies in defeating that.
Q Since the time you've been executive director, do you recall a proposal to increase taxes on cigarettes or tobacco products, smokeless tobacco, as well --
MR. BLALOCK: Let me make something clear. When you say "since the time you have been executive director," every one of your questions is limited to the -- the time period of 1954 to August 26th, 1996, and so we're not -- any time you ask a question, we're not talking about anything after August 26th, 1996; right?
MR. MIKHAIL: That's correct.
MR. BLALOCK: And if you answer his questions, you're talking about that time period.

http://legacy.library.ucsf.edu/tid/auu07a00/pdf
Downloaded from www.industrydocuments.ucsf.edu/docs/shhl0001

Page 38

MR. MIKHAIL: And the only reason I'm saying "since you have been executive director" because I'm assuming he didn't know what was going on before he became executive director.

MR. BLALOCK: Sure.

Q (BY MR. MIKHAIL) Okay. Let me rephrase the question. Since you have been executive director and up until August of '96, do you recall an instance when there was a proposed increase in taxes in the Oklahoma legislature on tobacco products that your organization decided to take a position against without being approached by the tobacco industry to take that opposition?

A Trying to remember the year. It wouldn't have made any difference if we would have been approached or not approached. Or if it happened today, if they tried to do that because of the -- the situation with the Native Americans, we would have opposed it.

Q So your organization is opposed to increases in tobacco taxes --

A State taxes, yes, sir.

Q State tobacco taxes regardless of whether or not the tobacco industry is taking a position against it?

A Yes, sir.

Q Okay. But in all the instances in which there was a proposed tax increase on tobacco products, did the tobacco

Page 39

industry solicit your support to defeat that legislation? Whether or not you were independently against it, did they ask for your support?

A Yeah, yeah, I'm sure they did.

Q And what type of assistance did the tobacco industry give you in defeating that legislation?

A None.

Q Did they give you any money?

A No.

Q Did they give you any manpower?

A No.

Q Did they give you any access to phone banks?

A No.

Q Did they give you any access to mass mailing?

A No.

Q Letter writing?

A No.

Q Postage?

A No.

Q Did they place any kind of -- pay for placing any kinds of advertisements or public service announcements or any kind of public campaign to defeat that legislation that they paid for?

A No. They -- they relied on us, our grass roots efforts because we believed in it as they did. I mean,

Page 40

because it was -- it was taking money out of our people's pockets and then it would be going to the smoke shops or wherever.

Q Okay. Why -- why would the OPMA oppose an increase in taxes on cigarettes?

A Because we couldn't sell them. We could not compete with the Native Americans, and in Oklahoma you've got an awful lot of smoke shops, Indian smoke shops that are on sovereign property that don't pay state tobacco tax. I keep saying motor fuel, but it's the tobacco tax. They pay 25 percent of what my member pays. And they may put up a shack here, a trailer or whatever, and -- we're just -- we're just widening the gap is what we're doing every time there's a tax increase.

Q Okay. So the concern is widening the gap -- or a concern is widening the gap between competing merchants?

A We can't compete, yes.

Q You can't compete. Okay. But what tax, what tobacco tax do your members who are retailers of tobacco products, what tax do they pay -- tobacco tax do they pay?

A I don't know exactly. Say, if it's a dollar a pack -- and I don't even know what it is. It's not -- may be three dollars a carton. The tribes pay 25 percent of that three dollars and my member pays the three dollars to his wholesaler or to his supplier. So we're not competitive

Page 41

to start with. And then if they widen that gap, if they make state tax four dollars, we're that farther away.

So some of our people are -- and you mentioned receiving money from the Tobacco Institute. We've received some aid in the "We card" program which is a -- a training program for retailers. And it's a great training program, and we've -- we've utilized all their kits, whatever they -- whatever they provide. And we've had six or seven seminars around the state on that.

Q Okay. But let's stick with the taxes right now.

A I thought I answered it. We cannot compete.

Q Okay. But as far as the taxes -- tobacco taxes, you said your organization is opposed, independently and in conjunction with the tobacco industry, proposed increases in tobacco taxes; correct?

A Yes, sir.

Q All right. And what I'm asking you is what tobacco tax your members pay.

A Whatever the state says we pay, we pay.

Q You don't know -- you cannot identify those for me?

A No. I don't know what it is.

Q And it's not the consumer of the product that pays the tax?

A Right. We pass it on. Just like on any kind of

PROFESSIONAL REPORTERS
(405) 272-1006 (800) 376-1006

http://legacy.library.ucsf.edu/tid/auq07a00/pdf Digitized by the Internet Archive http://www.industrydocuments.ucsf.edu/docs/shhl0001

Page 42

01:17:13 tax on motor fuel, when you buy gasoline, when you buy
01:17:17 cigarettes, you pay the tax. The instance of tax is
01:17:22 probably at the retail level on tobacco.
01:17:25 There's a compact with the state, but if -- if the
01:17:32 tribes only pay 25 percent of that tax, all they have to
01:17:37 pass through is 25 percent and then their profit is from
01:17:40 there on. Ours we have to pass it all through or we have to
01:17:45 eat it, and that's not very profitable to do.
01:17:47 Q But you pass it on to the consumer?
01:17:50 A Sure, sure.
01:17:51 Q So the consumer of the product is the one who pays
01:17:54 the tax even when there's a tax increase.
01:17:56 A Sure.
01:17:56 Q And so any loss of -- of business or loss of
01:18:03 profit to your members would be in -- in a reduction in
01:18:09 sales --
01:18:09 A Right.
01:18:18 Q -- because of the tax increase; correct? Is that
01:18:19 correct?
01:18:19 A That plus the state would have a reduction in
01:18:20 revenue coming in.
01:18:23 Q Okay. What empirical evidence do you have as
01:18:25 director of OPMA, what scientific research study results do
01:18:28 you have available to you to show that the increase in taxes
01:18:34 on cigarettes that are passed on to the consumer results in

Page 43

01:18:39 a decrease in the amount of sales of the products to the
01:18:43 consumer? Or is this just something you believe would
01:18:49 happen?
01:18:49 A It's something that my members tell me that their
01:18:53 -- their sales are non-existent as compared to before the
01:18:57 tax happened. And I keep referring to the Native Americans
01:19:02 because that's -- that's our big problem here in Oklahoma,
01:19:05 because of the price disadvantage that we have.
01:19:08 Q Okay.
01:19:09 A And the price disadvantage is the tax.
01:19:11 Q But the evidence that you're basing --
01:19:13 A I do not have any scientific evidence. I'm
01:19:15 telling -- all I know by is what my members tell me. Their
01:19:19 sales are dwindling.
01:19:22 Q Okay. Are you -- do you have available to you or
01:19:26 have you had available to you in the time period we're
01:19:28 talking about when you took a position on tax increases,
01:19:32 results of scientific, empirical studies, empirical evidence
01:19:36 that the reduction in -- I mean, the increase. I'm sorry --
01:19:41 the increase in the amount of tobacco taxes results in a
01:19:46 significant decrease in the sale of tobacco products to
01:19:53 minors?
01:19:53 A No.
01:19:56 Q During the time that you have been executive
01:19:59 director that you have lobbied for your organization against

Page 44

01:20:03 a tax increase on tobacco products, did you take into
01:20:06 consideration at all any studies, scientific studies and
01:20:14 research that has looked into the effect of an increase of
01:20:20 taxes on tobacco products on sales to minors?
01:20:24 MR. BLALOCK: Object to the form.
01:20:25 Q (BY MR. MIKHAIL) You may answer.
01:20:28 A I think I go back to the -- and it doesn't relate
01:20:33 to taxes. I don't know that I've seen anything like that.
01:20:36 I know we -- we -- all our people don't want to sell to
01:20:40 minors. We use the "We card" program to identify everything
01:20:44 else. I would hope it would, but I don't know that it has.
01:20:48 Q Okay. Is it fair to say that that was not a
01:20:51 consideration, any kind of scientific results on the effect
01:20:54 of the increase on sale to minors was not a consideration in
01:20:57 your lobbying efforts against the tax?
01:21:02 In other words, they were not taking -- any
01:21:05 research and studies on the impact of that as to sales on
01:21:08 minors was not part of the consideration; isn't that fair?
01:21:11 A I think -- I think what my people were concerned
01:21:19 with who do responsible sales don't want to sell to minors,
01:21:22 but even the people who are by law able to buy cigarettes,
01:21:26 they were going to where the cheaper price was. But the tax
01:21:32 -- the taxes make our product not competitive, therefore
01:21:40 they were taken into consideration. But as far as minors,
01:21:46 our people don't want to sell to minors anyway. And I say

Page 45

01:21:51 my people and I don't represent all convenience stores and
01:21:53 unfortunately some --
01:21:54 Q I understand.
01:21:54 A Some don't abide by the law.
01:21:58 Q Mr. McSpadden, if -- if in the time period we're
01:22:01 talking about you had available to you and you were aware of
01:22:04 and had access to scientific studies that show that the
01:22:11 impact on sales to adults of an increase in tobacco taxes
01:22:15 which are paid by the consumer, is very small, but the
01:22:20 impact or the reduction in sales to minors because of the
01:22:25 tax increase was significant, would that have changed the
01:22:28 position of your organization?
01:22:31 MR. BLALOCK: Object to the form.
01:22:31 THE WITNESS: I'm going to say it probably would
01:22:36 have, had we not had the tribal smoke shops in place.
01:22:43 Q (BY MR. MIKHAIL) Okay. And let me ask you this,
01:22:45 in the same vein, the same topic we're talking about now.
01:22:48 When your organization supported -- I'm sorry -- opposed tax
01:22:52 increases on tobacco products, whether it was independent or
01:22:55 your own or whether it was in conjunction with the tobacco
01:22:58 industry, did the tobacco industry ever furnish your
01:23:01 organization with scientific, empirical evidence, research
01:23:05 studies that have been made that concluded what I have been
01:23:11 talking about, the effect of an increase in tax on the sale
01:23:14 to minors? Did they ever furnish your organization wit

http://legacy.library.ucsf.edu/tid/aug07a00/pdf
Support provided by the Industry Documents Library: www.industrydocuments.ucsf.edu/docs/shhl0001

Page 46

that type of information?
A I don't remember. I -- if they did, I don't -- I don't remember.
Q Okay. Just so we're clear. You're not saying yes -- I mean, you're not saying -- are you just saying you don't remember? Let me rephrase the question.
Do you recall the tobacco industry giving you material consisting of studies or research resulting in -- with the conclusion that I have -- that I have given you?
A I've received so much information on -- from the tobacco companies, from our national association who joined with them, also, to -- but it was on the federal level and not the state level.
Q Well, do you recall the tobacco industry when they were trying to get you to help them defeat the tobacco tax ever telling you, "Mr. McSpadden, look, here are some studies that show that -- that -- that when there is an increase in the tax, there's a reduction -- a significant reduction in sales to minors"?
A No.
MR. BARTON: Object to the form. Mischaracterization.
MR. MIKHAIL: Right. He already answered the question. It's noted for the record.
Q (BY MR. MIKHAIL) We started out talking about

Page 47

issues that are of concern to your organization. We talked about taxes. There was a proposed piece of legislation some years ago to eliminate an exemption in Oklahoma from sales tax, I believe -- and correct me if I'm mistaken. I'm not from Oklahoma -- on the sale of tobacco products. Are you familiar with that?
A No.
Q I believe it was prior to 1992, but you were involved in the business. Do you recall anything about that, about attempts in the legislature to -- and success in eliminating an exemption from sales tax for selling tobacco? Do you recall anything about that?
A No.
Q So you can't help me with any information about that?
A No.
Q All right. Another issue. Does OPMA -- again, the same time period we're talking about -- have a position on use restrictions of tobacco products? And let me explain what I mean. Use restrictions means placing restrictions on the use of tobacco products like no smoking in public buildings or no smoking in restaurants or no smoking in schools or no smoking in day care centers. Just various restrictions on where someone may smoke or use tobacco products. Does OPMA have a position on that?

Page 48

A No, we don't.
Q Has OPMA in the time period that we're talking about and since you have been executive director assisted, provided any kind of support to the tobacco industry in defeating legislation aimed at restricting smoking in Oklahoma?
A If -- we probably did because a lot of convenience stores have delis or where can you order food, you can sit down and eat. My board was -- I don't think we had -- no, we didn't -- we didn't take a position because my board was divided on it.
Q Were you solicited by the tobacco industry to take a position since you on your own did not?
A I -- I think we were, probably.
Q Okay. And do you recall any instance when you actually did provide some support to their request?
A No. Because we didn't have a consensus on our executive committee.
Q Okay. Now, what did the tobacco industry tell you, tell OPMA as to why you should oppose these restrictions? Why you, meaning, OPMA should oppose these restrictions.
A Because we had in our convenience stores -- not all of them, but in some convenience stores you had sit-down eating areas that were -- people smoked.

Page 49

Q So -- but in monitoring legislation and in looking at what's going on at the Capitol, you -- neither you nor Mr. Taylor nor the legislative chairman spotted this issue as an issue of concern to OPMA.
A It was a concern because -- because some -- some did; some didn't. So we brought it to the attention of our executive committee, which we do on anything that -- some -- some liked it; some didn't like it. So we took a -- not a position.
Q Just so the record will be clear. I'm not sure I'm understanding you. Did you take it to the executive committee after the tobacco industry solicited your assistance on it?
A Probably it was already there. We probably monitored -- and I can't remember. I don't know the sequence of it, but it was a concern to us that they were trying to restrict in our places of business whether they could or couldn't smoke. And we had -- we couldn't come to a consensus so we just took a no position.
Q But do you remember -- if you don't remember, you don't remember. I'm not trying to force you to remember.
A I don't remember.
Q You don't remember if you brought this issue to the attention of your executive committee --
A No, sir, I don't.

PROFESSIONAL REPORTERS
(405) 272-1006 (800) 376-1006
http://legacy.library.ucsf.edu/tid/auq07a00/pdf
Support provided by the Industry Documents Library: http://www.industrydocuments.ucsf.edu/docs/shhl0001

Page 50

01:29:02 Q -- before the tobacco industry approached you or after?
01:29:04 A No, I don't remember.
01:29:04 Q Tell me what -- why your organization could not reach a consensus on use restrictions, restricting smoking in --
01:29:15 A Just personal preference. Some didn't want people smoking in their -- in their building. They don't smoke. They wanted it smoke free. It's their business. And I answer to them. Some didn't care.
01:29:29 Q Some didn't care?
01:29:32 A It wasn't a big issue.
01:29:33 Q There was no consensus on that issue?
01:29:34 A No, sir.
01:29:36 Q What other arguments did the tobacco industry advance to your organization as to why you should support their position? And that is oppose use restrictions.
01:29:41 A None.
01:29:47 Q Okay. All right. Another issue -- let's move to another issue. This occurred since you have been executive director of OPMA. Are you familiar with the 1994 Prevention of Youth Access to Tobacco Act?
01:30:00 A Yes.
01:30:14 Q Are you familiar with something that's called the Synar amendment?
01:30:17 A Yes.
01:30:18 Q Can you tell me just briefly -- I'm not giving you a quiz, but could you tell me what the Synar amendment was.
01:30:23 A Not -- not -- I can't.
01:30:24 Q Okay. But you know it has something to do with sales to minors?
01:30:28 A Sure.
01:30:31 Q Okay. All right. Do you recall that when the -- well, did you know that the Synar amendment was a -- an amendment to a piece of legislation in Congress dealing with funds for mental health in the states, the Synar amendment -- did you know that the Synar amendment was an amendment to that bill providing for withholding of funds to states for mental health if they did not enforce youth access laws or laws against access by minors to tobacco. Did you know that?
01:30:34 A Yes.
01:30:37 Q Okay.
01:30:37 A Sure.
01:30:38 Q Okay. All right. Do you recall that when the --
01:30:49 A I knew it was very controversial, yes, on the mental health.
01:30:55 Q But you knew that that's generally what the Synar amendment was for.
01:31:04 A Not specifically; but, in general, yes.
01:31:09 Q In general. Okay. Did you know that as a result of the Synar amendment, the Oklahoma legislature passed the bill that we're talking about or passed the bill and it became law in 1993-94 called -- which became called the
01:31:12 A Yes.
01:31:18 Q Okay. Do you recall your organization lobbying or providing support by phone banks and letter writing, et cetera, in support of that legislation in 1993-94 that became the youth -- or Prevention of Youth Access to Tobacco Act?
01:31:26 A I can't remember how active we were in that, but I -- I know our executive committee was in favor of youth access -- prevention of youth access to tobacco.
01:31:29 Q Okay. There's nothing in particular about the provisions of that legislation that you recall the organization that you represent lobbying for or against?
01:31:30 A I'm sure there were. I'm trying to -- we wanted to make it as palatable for our convenience store clerks to -- to not be thrown in jail or to -- to -- whatever the restriction was, to where they could understand it, to where they could administer it properly.
01:31:31 Q So one concern was the penalties in the act?
01:31:33 A Yes, yes.
01:31:34 Q You recall that being a concern?
01:31:37 A Yes.
01:31:38 Q Okay. Do you recall compliance testing being a concern to your organization?
01:31:42 A Yes. And how it was -- who did it and --
01:31:45 Q Who did sting operations, for instance?
01:31:53 A Yes, yes.
01:31:55 Q That was of concern to your organization?
01:31:56 A Uh-huh.
01:31:57 Q Did OPMA take a position on that act -- probably going to take a break in a couple of minutes. You can go ahead now, but I'm going to finish this line of questioning and then we'll give you a break, Mr. McSpadden. We have been going for a while.
01:32:03 Do you recall the organization taking a specific position and lobbying the legislature on the issue of the compliance?
01:32:04 A Yes.
01:32:04 Q Did OPMA -- when the bill was introduced in the legislature in 1993-94 which was as a result of the Synar amendment, did OPMA take a position on any provision of that proposed legislation which dealt with sales to minors, as well?
01:32:14 A Yes, yes. We were supportive of the sales against -- against minors and buying tobacco products.
01:32:21 Q Okay. Do you recall your organization lobbying or providing support by phone banks and letter writing, et cetera, in support of that legislation in 1993-94 that became the youth -- or Prevention of Youth Access to Tobacco Act?
01:32:30 A I can't remember how active we were in that, but I -- I know our executive committee was in favor of youth access -- prevention of youth access to tobacco.
01:32:37 Q Okay. There's nothing in particular about the provisions of that legislation that you recall the organization that you represent lobbying for or against?
01:32:46 A I'm sure there were. I'm trying to -- we wanted to make it as palatable for our convenience store clerks to -- to not be thrown in jail or to -- to -- whatever the restriction was, to where they could understand it, to where they could administer it properly.
01:32:51 Q So one concern was the penalties in the act?
01:32:57 A Yes, yes.
01:33:01 Q You recall that being a concern?
01:33:07 A Yes.
01:33:09 Q Okay. Do you recall compliance testing being a concern to your organization?
01:33:11 A Yes. And how it was -- who did it and --
01:33:17 Q Who did sting operations, for instance?
01:33:21 A Yes, yes.
01:33:24 Q That was of concern to your organization?
01:33:30 A Uh-huh.
01:33:34 Q Did OPMA take a position on that act -- probably going to take a break in a couple of minutes. You can go ahead now, but I'm going to finish this line of questioning and then we'll give you a break, Mr. McSpadden. We have been going for a while.
01:33:36 Do you recall the organization taking a specific position and lobbying the legislature on the issue of the compliance?
01:33:40 A Yes, I do.
01:33:47 Q And what is it about the act that you didn't like, the compliance provisions of the act?
01:33:53 A What you just mentioned. The penalties were very restrictive, very harsh, we felt like. Who administered the

Page 51

Page 52

Page 53

http://legacy.library.ucsf.edu/tid/auq07a00/pdf
Support provided by the Industry Documents Library: http://www.industrydocuments.ucsf.edu/docs/shhl0001

Page 54

01:35:15 sting operations, how they were administered. We wanted
01:35:18 some input in that.
01:35:19 We still -- we -- we believed in the prevention of
01:35:22 youth access to tobacco, but we needed to do our business,
01:35:27 too. And we needed to sell responsibly, but this kind of
01:35:30 hampered, that. So we tried to work with the legislature in
01:35:33 trying to get something that's workable for all sides.
01:35:36 Q Okay. Are you telling me that the bill as
01:35:39 proposed was too harsh in parts, or you're just saying that
01:35:42 you worked in favor of what you called reasonable penalties?
01:35:45 A Apparently the bill was too harsh when it was
01:35:48 introduced, and we tried to make it palatable.
01:35:52 Q You don't recall specifically --
01:35:54 A No, sir, I don't.
01:35:55 Q -- if the bill if introduced had harsh or low --
01:35:58 A I'm just saying something didn't -- wasn't right
01:36:01 as far as our people doing their business as -- as usual --
01:36:04 not as usual, but with the -- with the restrictions that
01:36:07 we've got. We needed to make it where it's -- the people
01:36:11 are penalized, but a little breathing room, maybe.
01:36:17 MR. MIKHAIL: Okay. Let's take a break.
01:36:19 MS. COY: We're off the record at 01:36:19.
01:36:29 (A recess was taken.)
01:43:32 MS. COY: We are back on the record at 01:43:43.
01:43:45 Q (BY MR. MIKHAIL) All right. Thank you.

Page 55

01:43:47 Mr. McSpadden, we were talking about various provisions of
01:43:51 the --
01:43:52 MS. COY: Excuse me, Mr. Mikhail. I apologize.
01:43:55 Your microphone isn't on.
01:43:58 Q (BY MR. MIKHAIL) Okay. That's better. Before we
01:44:04 took the break we were talking about various provisions of
01:44:07 the Prevention To Youth Access To Tobacco Act, and I hope
01:44:10 I'm calling it correctly, but you know what I'm talking
01:44:13 about.
01:44:13 A Uh-huh.
01:44:14 Q Were you aware at the time that the bill was
01:44:18 introduced in the legislature that the Tobacco Institute had
01:44:25 drafted the bill, a model bill and had one of its lobbyists
01:44:37 have one of the legislators introduce it into the Oklahoma
01:44:43 legislature. Were you aware of that at the time?
01:44:46 MR. BARTON: Object to the form. Assumes facts
01:44:48 not in evidence.
01:44:51 THE WITNESS: No.
01:44:52 Q (BY MR. MIKHAIL) Were you aware that the Tobacco
01:44:54 Institute acting as the trade association for the tobacco
01:44:57 manufacturers had drafted or had drafted in Washington by
01:45:02 their law firm, Covington and Burling, a model youth access
01:45:06 bill and had it introduced in various states?
01:45:09 MR. BARTON: Object. Same reason.
01:45:12 Q (BY MR. MIKHAIL) Were you aware of that at the

Page 56

01:45:13 time?
01:45:13 A I had heard that -- this youth access --
01:45:19 prevention of access was being introduced somewhere.
01:45:22 Q Okay.
01:45:23 A Other places.
01:45:24 Q Did you know at the time or did you hear at the
01:45:25 time that the tobacco industry had actually had a model bill
01:45:32 dealing with youth access prepared and then had it
01:45:35 introduced in various legislatures?
01:45:37 A No.
01:45:38 Q Legislatures. I'm sorry. Did not?
01:45:40 A No.
01:45:41 Q When your organization was monitoring or watching
01:45:48 the bill that we're talking about, the 1993-94 youth access
01:45:52 bill that was introduced in the legislature, we talked about
01:45:56 a couple of the provisions that you were concerned about.
01:45:59 Were you aware at the time that that piece of legislation
01:46:01 was the piece of legislation that the tobacco industry
01:46:05 wanted passed in Oklahoma?
01:46:06 A I don't remember.
01:46:08 Q What was the concern specifically of OPMA on the
01:46:23 provisions dealing with compliance testing? In other words,
01:46:26 what is it that you wanted as to compliance testing? Did
01:46:31 you want restrictions on how many times it can be done? Do
01:46:36 you recall?

Page 57

01:46:36 A Not specifically. It was -- it was in that area,
01:46:42 though. The first time was a certain offense, the second
01:46:45 time, the third time.
01:46:46 Q Okay. Penalties for violations?
01:46:48 A Uh-huh.
01:46:49 Q But I'm talking about the actual compliance
01:46:51 testing. In other words, how many times your store could be
01:46:54 checked or monitored to see if -- if there was illegal sales
01:46:59 taking place. Did you take a position, then?
01:47:03 A I don't remember on that specific one.
01:47:04 Q Do you remember generally that that was a concern
01:47:06 about how many times compliance checks were made?
01:47:09 A Not specifically, but I'm sure it was in that
01:47:17 arena. I don't know if the compliance checks were too
01:47:21 stringent. I don't remember.
01:47:23 Q But what does stand out in your mind is the issue
01:47:26 of the penalties for violations; correct?
01:47:28 A That stands out. Yes. Excuse me.
01:47:30 Q Okay. Does the issue of who conducts the
01:47:34 compliance, was that an issue of concern to you?
01:47:37 A Yes.
01:47:37 Q Okay. And what -- what was your position on who
01:47:42 conducts the compliance checks? Did you favor one group
01:47:45 over another or who would do it and who not to do it? What
01:47:48 exactly did you all want?

PROFESSIONAL REPORTERS
(405) 272-1006 (800) 376-1006

http://legacy.library.ucsf.edu/tid/auq07a00/pdf
Support provided by the Industry Documents Library: http://www.industrydocuments.ucsf.edu/docs/shhl0001

Page 58

01:47:49 A Trying to remember. I think it was locally who we
01:47:56 wanted to do it. I know some of our people had even worked
01:48:02 with local law enforcement offices to do theirs on -- as a
01:48:08 -- in their business. Maybe they had ten stores and they
01:48:11 worked with a local law enforcement there and they had --
01:48:15 they were comfortable with that.
01:48:18 Q Are you saying that your organization wanted
01:48:22 compliance checks to be done at the local level by local
01:48:25 officials as opposed to some other entity?
01:48:27 A I'm saying I don't remember. I said some of them
01:48:31 were comfortable with that. I don't remember what we --
01:48:34 what we agreed on as to who did it.
01:48:36 Q What about compliance checks by independent,
01:48:45 non-governmental entities? Let me explain. In other words,
01:48:48 not the local police, not the sheriff's department, not the
01:48:52 State Health Department or the state police. You have a
01:48:56 state police in Oklahoma? Highway patrol?
01:48:58 A Uh-huh, uh-huh.
01:49:00 Q But by independent groups, and I'm talking about
01:49:03 groups such as health groups, American Heart Association,
01:49:07 American Cancer Society, an investigative reporter for a
01:49:10 magazine or a newspaper. Did your organization take a
01:49:13 position for or against independent groups being able to
01:49:17 conduct compliance checks of your stores?
01:49:19 A I don't remember. I know that we would probably

Page 59

01:49:22 oppose that, but I don't remember.
01:49:24 Q You don't remember specifically?
01:49:25 A No.
01:49:25 Q Did you know that the tobacco industry, the
01:49:35 defendants in this cause of action, in their model bill and
01:49:47 in similar places across the country -- but we're dealing
01:49:50 with Oklahoma so I'll restrict it to Oklahoma here -- wanted
01:49:53 to have prohibitions against compliance checks being done by
01:50:00 anyone other than one central group at the state level as
01:50:07 opposed to at the local level? Did you know that?
01:50:10 A No.
01:50:10 Q Did you know that they were against and were
01:50:16 lobbying to ensure that no independent health group such as
01:50:21 the American Heart Association or any kind of health
01:50:23 officials, doctors' organization, or investigative
01:50:27 reporters, to make it a prohibition in model youth access
01:50:33 laws for those types of compliance checks? Were you aware
01:50:36 of that?
01:50:36 A No.
01:50:37 Q Were you aware that they provided penalties in
01:50:43 this proposed legislation against such entities conducting
01:50:49 compliance checks?
01:50:50 A No.
01:50:50 Q Did the tobacco industry at the time that you --
01:51:00 your organization was looking at, monitoring, lobbying as it

Page 60

01:51:05 relates to that youth access law in 1993-94, did the tobacco
01:51:11 industry ever provide your organization during that time
01:51:14 period when that bill was pending with empirical evidence,
01:51:18 with studies, with research that showed that compliance
01:51:23 testing, compliance checks by independent groups such as
01:51:30 medical groups, investigative reporters, had over a number
01:51:34 of years proven to be the most effective in reducing illegal
01:51:39 sales to minors by retail establishments?
01:51:42 A I don't remember. I don't think so.
01:51:44 Q Did the tobacco industry prior to Synar, prior to
01:52:00 Synar being passed in 1992 -- and I'll represent to you it
01:52:04 was passed in 1992 -- we started without you, Kathy. They
01:52:09 said it was okay.
01:52:11 And prior to the youth access bill that was
01:52:14 introduced in 1993-94, did the tobacco industry solicit your
01:52:23 organization's support to have passed in Oklahoma a youth
01:52:29 access bill?
01:52:31 A I wouldn't know. It's -- I didn't get there till
01:52:37 '92 so --
01:52:39 Q You wouldn't know anything about that?
01:52:42 A No, no.
01:52:42 Q Would it surprise you if I tell you that they did
01:52:44 not?
01:52:44 A Wouldn't surprise me either way.
01:52:46 MR. BLALOCK: Object to the form of the question.

Page 61

01:52:47 It calls for speculation.
01:52:48 Q (BY MR. MIKHAIL) That's fine. If I'm representing
01:52:51 to you that they did not, would that be a surprise to you?
01:52:53 A Wouldn't surprise me either way. I don't know.
01:52:56 Q Okay. That's fair enough. Are you familiar with
01:53:19 the concept of preemption? Do you know what that is as it
01:53:22 relates to youth access to tobacco products?
01:53:25 A Explain it to me.
01:53:29 Q Okay. The term "preemption" in the way that I'm
01:53:35 using it deals with having laws at the state level to
01:53:38 preempt or prohibit laws on the local level that would be
01:53:45 more restrictive than what the state laws are. Does that
01:53:49 sound familiar to you?
01:53:50 A I've heard it in -- yes. In --
01:53:53 Q Okay. As it relates to youth access, do you
01:53:56 recall the issue of preemption being an issue in the 1993-94
01:54:01 youth access legislation? An issue of concern to OPMA. I'm
01:54:08 sorry.
01:54:08 A No.
01:54:08 Q Were you aware at the time that the tobacco
01:54:13 industry was insistent that a preemption provision be part
01:54:18 of any law that's passed that would preclude local laws from
01:54:26 being passed that would prevent -- or designed to prevent
01:54:31 illegal sales to minors --
01:54:32 A Uh-huh, uh-huh.

http://legacy.library.ucsf.edu/tid/auq07a00/pdf
Support provided by the Industry Documents Library: http://www.industrydocuments.ucsf.edu/docs/shhl0001

Page 62

Q -- that were more restrictive than the state law. Were you aware at the time that that's what the industry wanted?
A Explain it again.
Q Okay. At the time that you were watching that bill -- that piece of legislation and you said it was of concern to your organization; correct?
A Uh-huh. (Nodding head.) And you're --
Q Okay. It was of concern at the time and you were monitoring it.
A Uh-huh, sure.
Q Okay.
MR. BLALOCK: Are you sure – Mr. McSpadden, are you sure which bill he's talking about?
THE WITNESS: You're talking about --
Q (BY MR. MIKHAIL) The prevention to youth access to tobacco, the 1993-94 act. Not the current law that was passed in '97. The bill that was passed right after Synar.
A That made the state law.
Q It had a preemption provision which made -- that any restrictions on the illegal sales of tobacco to minors be a uniform law at the state level and it prohibited local communities, ordinances, county governments from passing laws that are more restrictive than what the state law was. Do you remember that?

Page 63

A Yes.
Q Do you remember the tobacco industry insisting or wanting to have a uniform law, a law that preempts any local legislation?
A Yes. Which would benefit us.
Q Okay.
A And our retailers.
Q Do you recall – strike that.
Did the tobacco industry furnish you with any evidence, empirical evidence, any study, any research, any information that reached the conclusion that the most effective enforcement, the most effective way to combat illegal sales of tobacco products to minors at convenience stores was by local legislation, local restrictive legislation and that preemptive laws did not work anywhere near as well. Did they furnish you with information to that effect?
A No, sir.
Q Have you ever heard of a study of illegal sales to minors in convenience stores in a town called Woodridge, Illinois?
A Not that I can remember. I've seen several case studies on various places, but I don't remember that.
Q Okay. What about in a town called Leominster, Massachusetts, if I'm pronouncing that correctly.

Page 64

A No.
Q There are a number of studies but those two stand out. And as of today you don't recall?
A No.
Q Did the tobacco industry in 1993-94 when this legislation was pending provide you with the results of a study in Woodridge, Illinois, that did compliance or studied, researched compliance testing and its results in that town in Illinois that showed that there was a 69 percent reduction in smoking among junior high school students ages 12 to 13 as a result of compliance checks by independent groups such as health organizations, doctors' groups, American Heart Association as opposed to state law enforcement?
MR. BARTON: Object to the form.
Q (BY MR. MIKHAIL) Did they not provide you that information?
A No.
Q Did they provide you the results of a study done on the town of Leominster, Massachusetts, which showed that smoking among this same age group, junior high school students, dropped by 44 percent after compliance testing by these independent groups and investigative reporters included – were instituted in those towns?
A No. I don't remember anything about either one of

Page 65

them, again.
Q Okay. Did they provide you with evidence in 1993-94 – they meaning the tobacco industry – when this bill was pending that all the voluntary industry-sponsored training programs, education programs, brochures, booklets that were previously implemented by the tobacco industry showed very little, if no, reduction in youth sales?
MR. BARTON: Object to the form. It's vague.
Q (BY MR. MIKHAIL) Did they show you that information?
MR. BARTON: Same objection.
THE WITNESS: No.
Q (BY MR. MIKHAIL) They didn't show you information that the "It's the law" program. Are you familiar with the "It's the law" program?
A Is it similar to the "We card" program?
Q It was instituted by the Tobacco Institute prior to the "We card" program. Do you know anything about the "It's the law" program?
A I've heard of it. The "We card" is what we used. I'm more familiar with that.
Q Okay. Prior to 1993-94 --
A No, I don't.
Q -- do you remember seeing in convenience store signs, "It's the law. Don't use tobacco"?

http://legacy.library.ucsf.edu/tid/auq07a00/pdf Document hosted at www.industrydocuments.ucsf.edu/docs/shhl0001

Page 66

01:59:59 1 A Uh-huh.
02:00:00 2 Q Or for minors, it's prohibited to sell tobacco to
02:00:03 3 minors. Do you recall seeing signs in your members' stores?
02:00:06 4 A Sure. I think we provided the sign to put up as
02:00:11 5 -- I don't remember if it was "It's the law" or -- I think
02:00:14 6 so, yes.
02:00:15 7 Q Okay. And that was a voluntary program?
02:00:17 8 A Uh-huh.
02:00:17 9 Q It wasn't a requirement by law, was it?
02:00:19 10 A Huh-uh. Not that I remember.
02:00:21 11 Q It was by the Tobacco Institute. Do you know or
02:00:23 12 don't know one way or the other?
02:00:25 13 A Nope.
02:00:25 14 Q Well, did the industry in 1993-94, when youth
02:00:29 15 access legislation was pending, furnish you with evidence
02:00:35 16 that showed that the reduction in illegal sales to minors by
02:00:39 17 convenience stores after the implementation of the "It's the
02:00:43 18 law" program was not significant at all?
02:00:48 19 MR. BLALOCK: Object to the form of the question.
02:00:48 20 Can you clarify what the industry is.
21 (Mr. Tomlinson joined the proceedings.)
02:00:50 22 MR. MIKHAIL: I did earlier. Hey, Bob. Come on
02:00:52 23 in. I'll do it and let's make it for the record. It's the
02:00:56 24 manufacturers that are defendants in this lawsuit plus their
02:00:58 25 trade association, the Tobacco Institute. In this case

Page 67

02:01:01 1 we're dealing with Phillip Morris, Brown & Williamson, R.J.
02:01:04 2 Reynolds and Lorillard.
02:01:06 3 THE WITNESS: I don't remember.
02:01:15 4 Q (BY MR. MIKHAIL) Do you know what was the impetus
02:01:18 5 behind the Synar amendment, what led or prompted former
02:01:23 6 congressman -- or the late Congressman Synar to propose the
02:01:28 7 Synar amendment?
02:01:29 8 A Other than he didn't like cigarettes, smoking, no.
02:01:37 9 Q You don't know what --
02:01:38 10 A No.
02:01:38 11 Q Did you know at the time that you were considering
02:01:40 12 this youth access bill that the main impetus behind the
02:01:47 13 Synar amendment was the -- or were the results that were
02:01:57 14 being publicized about the large percentage of illegal sales
02:02:06 15 to minors taking place in convenience stores and retail
02:02:11 16 establishments around the country? Did you know that?
02:02:13 17 A Obviously we did and we agreed with the -- the
02:02:19 18 youth prevention of --
02:02:20 19 Q No. I understand. What I'm asking is: Did you
02:02:23 20 know that the impetus behind Synar was the publicizing of
02:02:27 21 all these independent groups, the health groups and --
02:02:31 22 A No, I didn't.
02:02:31 23 Q Okay. Did you know that prior to Synar, prior to
02:02:37 24 the Synar amendment being passed requiring states to pass
02:02:44 25 restrictive legislation against illegal sales to minors,

Page 68

02:02:48 1 that the tobacco industry had never sponsored a youth access
02:02:53 2 bill in any state legislature including Oklahoma? Did you
02:02:56 3 know that?
02:02:57 4 MR. BARTON: Object to the form of the question.
02:02:58 5 THE WITNESS: I didn't know that.
02:02:59 6 Q (BY MR. MIKHAIL) Okay. Did you know that before
02:03:01 7 there was a requirement by federal law that certain
02:03:04 8 provisions and certain restrictions be placed in youth
02:03:08 9 access laws in states, did the tobacco industry prepare a
02:03:11 10 model bill to have introduced in the legislature?
02:03:14 11 A I didn't know that.
02:03:15 12 Q Are you aware of documents, tobacco industry
02:03:18 13 documents which say that, "If we're going to have a youth
02:03:21 14 access or a law against the sale to minors, that we better
02:03:25 15 have one that suits us and that's why we're drafting a model
02:03:28 16 bill and having one that suits us if we're to have any bill
02:03:32 17 at all"? Were you aware of that?
02:03:34 18 MR. BARTON: Object to the form. It
02:03:36 19 mischaracterizes.
02:03:36 20 THE WITNESS: I'm not aware of that.
02:03:38 21 Q (BY MR. MIKHAIL) Now, the "We card" program that
02:03:44 22 we talked about, that was implemented in 19 -- late 1995-96;
02:03:52 23 isn't that correct?
02:03:53 24 A I'm not sure of the date, but --
02:03:56 25 Q Okay. The documents you --

Page 69

02:03:57 1 A Yes.
02:03:58 2 Q I knew this from other independent sources.
02:04:00 3 A Okay.
02:04:01 4 Q But your own documents -- and I'm representing to
02:04:03 5 you your own documents have brochures on the "We card"
02:04:08 6 program, and they say, "We've just implemented a new program
02:04:09 7 in December" and it was December, '95, and it initiated in
02:04:13 8 early '96.
02:04:14 9 A Okay.
02:04:14 10 Q Do you have any reason to doubt that, if your
02:04:15 11 documents reflect that?
02:04:16 12 A No, sir.
02:04:17 13 Q Okay. Were you aware that the Phillip Morris
02:04:23 14 program "Action Against Access" -- are you familiar with
02:04:25 15 that program?
02:04:25 16 A No.
02:04:25 17 Q No? Okay. "Action Against Access" is a similar
02:04:30 18 program by Phillip Morris. Were you aware that that program
02:04:34 19 was not initiated, also, until late 1995 and early 1996?
02:04:39 20 A Didn't even know it existed.
02:04:41 21 Q Okay. Were you aware that the "We card" program
02:04:44 22 and the "Action Against Access" were the most comprehensive
02:04:48 23 programs by the manufacturing -- the tobacco manufacturers
02:04:54 24 and related industries that joined with them to try to
02:04:57 25 prevent illegal sales to minors that had ever been

http://legacy.library.ucsf.edu/tid/auq07a00/pdf
Document hosted at www.industrydocuments.ucsf.edu/docs/shhl0001

Page 70

implemented? Were you aware of that?
A No, sir.
Q Were you aware that these programs, these comprehensive programs were initiated by the industry at this time three years -- approximately three years after the attempt to pass youth access legislation in the various states took place as a result of Synar? Were you aware of that?
MR. BARTON: Object to the form. It calls for speculation.
THE WITNESS: No.
Q (BY MR. MIKHAIL) Were you aware that prior to Synar, there were no comparable, voluntary industry-sponsored programs against youth access such as "Action Against Access" or "We card" prior to the Synar amendment?
A No.
Q Did your organization oppose having penalties against store owners as opposed to store clerks for illegal sales to minors in the 1993-94 time period?
A No. Not --
Q I'm sorry.
A It was against both. We -- we wanted it against the clerk first and if it was a repeated offense, then, yes.
Q Repeated -- I'm sorry. Is it your testimony that

Page 71

your organization did not have any objection to the store owner being penalized after a certain number of offenses?
A That's correct.
Q Okay. Were you aware at the time this legislation was pending and the OPMA was interested in it because of issues of concern to your members that the tobacco industry was opposed to any penalties at any time against the owners of the establishments?
A No, sir.
Q Now, clerks can be fired if they sell to minors illegally, can't they?
A Yes. It's in the -- it's a policy.
Q And it's easy for a store owner who's a member of your organization to simply fire a clerk if the clerk violates the law in sales to minors and just get a new one and the store owner doesn't get penalized.
A Not initially; but if it's a repeated offense, it goes on his record.
Q Right. But if no -- if no penalty's provided against the owner, then it would be as simple as firing the clerk and hiring a new one.
A I don't know if it's that simple, but that's -- that happens.
Q Okay. Did you know at the time that this is what the tobacco industry wanted?

Page 72

MR. BARTON: Object. It calls for speculation.
THE WITNESS: No.
Q (BY MR. MIKHAIL) Okay. Did the tobacco industry in 1993-94 when this bill was pending that we're talking about, the youth access bill, did they provide you with any information explaining preemption and why their -- their model bill preferred having preemption and state level regulation and law as opposed to allowing local towns and communities to pass legislation? Did they ever tell you why they preferred that?
A If they did, it wouldn't have made any difference. We -- we made our own decisions as -- with other products that we sell, beer, et cetera, that was in the same thing. And we made a decision based on what was best for us.
Q Did they ever tell you in 1993-94 that from 1986-87 all the way until 1992 that virtually all studies, all research, all tests conducted, compliance tests, compliance checks conducted were done at the local level by local officials?
A I don't remember.
Q As a representative of OPMA, do you consider the illegal sales of tobacco to minors an important issue?
A Very important.
Q And your organization is opposed to illegal sales of tobacco to minors; correct?

Page 73

A Yes, sir.
Q What is the reason that your organization lobbied for and wanted reasonable penalties, reasonable restrictions if you're so opposed to illegal sales to minors? Why not have as strict a penalties as you can have to stop it?
A Because we need to operate our business in a -- in a, I guess, responsible way and yet be responsible for ourselves, yet do business as usual, also. Because it's -- you're dealing with -- with people, with low-income, low-paid people. We try to train them as best we can, but it -- it's hard to operate a convenience store with that kind of a salary base. But we try to do as best we can.
Q Okay. But you want to reduce illegal sales to minors.
A Sure, we did. Sure.
Q And one of the letters, I think, that is in your file that talks about we want to do everything in our power to reduce illegal sales to minors. Isn't that what the OPMA's position is?
A Depends on what everything to do in our power means.
Q I understand. But, I mean, you do want to make every effort that you can --
A Yes, sir. I told you that.
Q -- to reduce illegal sales to minors, don't you?

PROFESSIONAL REPORTERS
(405) 272-1006 (800) 376-1006
http://legacy.library.ucsf.edu/tid/auq07a00/pdf
Support provided by the Industry Documents Library: www.industrydocuments.ucsf.edu/docs/shhl0001

Page 74

A We are against that.
Q Well, wouldn't you have liked to have -- in 1993-94 when this youth access bill was in place, wouldn't you have liked to have made available to you the results of research and studies that the tobacco industry had available to it about the effectiveness of local laws, the effectiveness of local compliance checks by the independent groups as it relates to the amount of reduction in illegal sales when you made your decision about what position you're going to take? Wouldn't you have liked to have that information, by what works and what doesn't work?
A We felt like we knew. We've had people in, like I told you before, sting operations and worked with our local officials. Sometimes it works; sometimes it didn't.
Q But I thought you told me earlier you weren't familiar at the time with any of these studies that I'm talking about.
A Not the studies, just personal --
Q Just anecdotal events?
A Yeah.
Q Would you have liked the tobacco industry to have furnished you --
A Don't know that it made any difference.
Q Let me ask my question. Would you have liked at the time in 1939-94 if reducing illegal sales to minors was

Page 75

so important to you, with empirical evidence that showed what would be effective and what would not be effective?
A Don't know that it would have made any difference.
Q What was the OPMA's position on penalties for obtaining access to tobacco against the underaged individuals, against minors? In other words, did OPMA take a position about -- or on the issue of what, if any, penalties are to be imposed against the minor who purchases tobacco?
A That was a concern of ours. They're the only ones that know they're under age and they're breaking the law by purchasing it so we wanted the -- as equal penalty with -- with him as was the clerk.
Q Okay. Did -- did the tobacco industry, as we defined it, also want to have penalties imposed against minors, not just against the store clerks?
A I don't remember specifically. I don't remember anything -- any objection they had, but I don't know right now.
Q Okay.
A I know that was our position.
Q Has the tobacco industry in the time period you've worked with the Petroleum Marketers Association solicited your assistance, your organization's assistance on any legislation dealing with tort reform in Oklahoma?

Page 76

A They've let us know what's -- what's happening. I don't know if they've -- if they've solicited our support in -- I'm sure they have, but we would -- we would go back and see if it's beneficial to all of our members.
Q No. I understand. But do you recall -- I mean, sitting here today do you recall an instance when you were approached -- not -- you didn't initiate it, but you were approached by the industry saying, "There's a concern about certain legislation that deals with tort reform and we want your help on it." Do you recall that?
A Sure. They said, "Where do you stand on this?" So we need to go back and -- I can't -- no, I cannot give you a specific.
Q You can't tell me today what was involved? Do you remember what position your organization took? Was it a position in line with what the tobacco industry's position was?
A No. Because I can't remember the specific one.
Q Okay. Fair enough. Did -- at any time when the tobacco industry was working along with your organization on various provisions of youth access legislation, did they ever provide you with information on the health consequences of tobacco?
A I don't remember.
Q Did they ever provide you with information on the

Page 77

addictive qualities of nicotine in tobacco?
A I don't remember. We -- we knew that.
Q Okay. But did they ever -- did the tobacco industry ever tell you that they did not want minors to smoke cigarettes because of health consequences?
A I don't remember. It's the law, and that's what we -- that's what we went by.
Q I understand, but do you recall --
A No, sir, I don't.
Q Do you recall the tobacco industry ever telling your organization or furnishing your organization with information saying, "We're against illegal sales to minors. Your stores are at the front line. We don't want these kids to get addicted. Our product is addictive so we've got to work against illegal sales to minors." Did they ever tell you that?
A I don't remember.
Q You don't remember that?
A (Shaking head.)
Q You don't remember if they told you or they didn't tell you?
A I knew that. I don't know who told me. I mean, it's in the press and everything else.
Q But I'm asking specifically if the industry --
A No.

http://legacy.library.ucsf.edu/tid/auq07a00/pdf Digitized by the Internet Archive http://www.industrydocuments.ucsf.edu/docs/shhl0001

Page 78

Q – furnished you with that information.
A I don't remember.
Q One of the documents that was produced in response to the subpoena was a document that involved the "We card" program.
A Uh-huh.
Q You're familiar with that program. We talked about it earlier.
A Uh-huh, yes.
Q It was from your files, and it was apparently put out by a group called Coalition for Responsible Tobacco Retailing. Does that name ring a bell?
A Yes, sir.
MR. BARTON: Can you identify the Bates number for the record, Counsel?
MR. MIKHAIL: Yeah. MSC-0022. Actually, it's 22 through 35.
MR. BARTON: Thanks.
MR. MIKHAIL: Every page is numbered so --
MR. BARTON: Okay.
Q (BY MR. MIKHAIL) The document itself lists who the members of the coalition are. One of the groups is the National Association of Convenience Stores. I don't see on this coalition the Oklahoma Petroleum Marketers Association or even a similar petroleum marketers association from

Page 79

anywhere else in the country. Are you -- is your organization part of the National Association of Convenience Stores?
A Our association is not. Our members are. It's a member association. Because they own convenience stores. We don't own any convenience stores. We represent them. State associations are not. We're part of a federation of Petroleum Marketers of America who do as a national association as is NACS. We get a lot of the information from them. As a matter of fact, that's where I'm headed this afternoon.
Q You're talking about NACS?
A NACS.
Q National Association of Convenience Stores?
A Yes. They are a different entity and – but they furnish a lot of good information on convenience stores to our members.
Q But many of your members are actually members of the National Association of Convenience Stores?
A Direct members, uh-huh.
Q And according to the information you've furnished, the National Association of Convenience Stores is a member of this coalition or part of this Coalition for Responsible Tobacco Retailing; is that right?
A Yes.

Page 80

Q This -- did you know -- you looked at the documents in your file? I mean --
A Uh-huh. Over a period of years, yes, that's --
Q Okay. Did you know that this Coalition for Responsible Tobacco Retailing by these various organizations, manufacture and trade organizations, was not founded, was not established until late 1995?
A No, sir.
Q Do you know why the tobacco industry as we defined it earlier did not initiate the comprehensive programs like "Action Against Access" by Phillip Morris or the "We card" program or this -- put together this coalition for responsible tobacco retailing until two, almost three years after Synar?
MR. BLALOCK: Object to the form of the question. You're asking him to speculate as to why tobacco does anything. I think he's answered a number of times already this morning that he did not have any recollection or -- and did not know about any of those policy decisions that you asked him before.
MR. BARTON: I'll join in that objection, also that it's vague.
MR. MIKHAIL: Your objections are noted.
Q (BY MR. MIKHAIL) Do you know? Do you know why?
A No.

Page 81

Q Okay. Another document, Mr. McSpadden, that -- that you produced out of your files was a document – for the record, gentlemen, it's MSC-001 through 0013 -- is a document entitled "FDA letter writing kick" -- sorry. Kit, K-I-T. "Say no to regulation of tobacco products." And it was – looks from the document that it was put out by the National Association of Convenience Stores. Are you familiar with that document that was in your files?
A Vaguely.
Q One of the concerns that your organization has expressed is the restrictions on self-display or self-help or display -- displays in members' stores; isn't that right?
A Yes.
Q Okay. What was the reason why your organization opposed restrictions on self-help and displays of tobacco products in the stores?
A I don't recall other than it's a -- we've got enough restrictions, it seemed like, with the youth -- prevention of youth access. We tried to do that, yet they were trying to burden us with others.
Q Okay. This was one of the regulations the FDA wanted passed. Do you recall that?
A Yes, sir.
Q Okay. And isn't it true, Mr. McSpadden, that the tobacco industry solicited your help and wanted your

PROFESSIONAL REPORTERS
(405) 272-1006 (800) 376-1006
http://legacy.library.ucsf.edu/tid/auq07a00/pdf
Digitized by the Internet Archive in 2014 http://www.industrydocuments.ucsf.edu/docs/shhl0001

Page 82

organization's help and your members' help in fighting the FDA proposed regulations?
A NACS did, N-A-C-S.
Q NACS. Okay.
A Yes.
Q Okay. And one of those provisions dealt with the self-help racks, I guess, or shelves?
A There were a lot of provisions.
Q And the displays in the stores.
A Uh-huh.
Q Did your organization, in fact, get on board and oppose that part of the FDA regulations in response to the request by NACS?
A We probably did if it was restrictive to our members and we felt like it was, yes.
Q You don't recall for sure?
A We probably sent out letters similar to what they said. And if you object to this. I can't answer for everybody because we -- we've had -- we can't get a consensus in our executive committee. We -- we send out that to our members and let them make up their own mind.
Q Okay. So these four letters that were sample letters sent to you, the letter about the regulatory letter, one about first amendment concerns.
A Uh-huh.

Page 83

Q And there's one dealing with display bans.
A Right.
Q These letters, your organization then furnished to your members and let them decide if they wanted to send them in?
A Right.
Q Did your -- your executive committee make a decision to recommend that your members send them out, or was it optional?
A Optional.
Q In other words, the organization did not request your members to actually send these letters out. They just furnished them to them and said, "If you want to send it out, send it out."
A If we did, they would make up their own mind anyway so --
Q I understand. I guess what I'm trying to find out is: Did your organization OPMA actually take a position to recommend to your members to write these letters?
A No.
Q Now, one of the concerns that are throughout the documents opposing the FDA regulations is that it would affect the bottom line for the members, convenience stores. Isn't that one of the concerns about some FDA regulations?
MR. TOMLINSON: Object to the form of the question.

Page 84

THE WITNESS: I don't know that that's -- I don't remember that. It would -- you're putting them --
Q (BY MR. MIKHAIL) Let me make it more specific. There were some restrictions on the self-help and the displays and the advertising in the store of tobacco products. Do you recall that?
A Yes.
Q Okay. And one of the concerns that your organization had as a concern of its members was those restrictions on the self-help displays and the advertising because it would hurt your business.
MR. TOMLINSON: Object to the form of the question.
Q (BY MR. MIKHAIL) Wasn't it?
A The objection they had was moving the tobacco away from -- in other words, they were going to have to build or remove something in their operation to where they would have to have limited access or just no access at all to tobacco other than from the clerk.
Q Okay. So are you saying that the concern was actually the --
A The cost involved.
Q -- the cost of actually maybe redoing the store?
A Uh-huh.

Page 85

Q So that --
A In our case it was, yes.
Q Right. In your case. And wouldn't that have been a one-time cost as opposed to a regular expense?
A Didn't make any difference. It was a cost.
Q I understand. I'm not quibbling with you. I'm just saying that's a one-time cost to get the place in compliance with what the rules require; isn't that right?
MR. TOMLINSON: Object to the form of the question.
Q (BY MR. MIKHAIL) Noted. Isn't that right?
A I don't -- I don't --
Q Let me ask it a different way.
A Yeah.
Q Was your organization's concern about the displays and about the self-help in the putting the cigarettes behind the counter or somewhere where youth could not easily have access to them, the one-time cost of changing things around in the store, or was it something else?
MR. TOMLINSON: Object to the form of the question.
THE WITNESS: I think it was a lot of things because the FDA was coming in and telling us how to do -- sell a -- a restricted product that by law is -- is a legal product, but they're coming in and telling us how -- where

http://legacy.library.ucsf.edu/tid/auq07a00/pdf
Support provided by the Industry Documents Library: http://www.industrydocuments.ucsf.edu/docs/shhl0001

Page 90

02:32:41 looking at my last document to see if I have any more
02:32:43 questions, but I am going to confer with Mr. Riggs for a
02:32:46 little bit.
02:33:17 Q (BY MR. MIKHAIL) Oh, Mr. McSpadden, we've just got
02:33:20 a couple of minutes on the tape so I'll hurry with this
02:33:23 question. Do you know if the tobacco industry, particularly
02:33:30 the manufacturers, reimburse your member stores for the
02:33:33 shoplifting of cigarettes, losses resulting from shoplifting
02:33:36 of cigarettes?
02:33:37 A I don't know that.
02:33:40 MR. MIKHAIL: Let's take a couple-minute break
02:33:42 since we're at the end of the tape. We may be through. I
02:33:45 just need to confer with David.
02:33:47 MS. COY: We're off the record at 02:33:45.
02:33:50 (A recess was taken.)
02:41:27 MS. COY: We're back on the record. This begins
02:41:39 tape two at 02:41:37.
02:41:44 MR. MIKHAIL: I'm done with the questions for the
02:41:47 plaintiffs unless the questions from defense counsel trigger
02:41:49 something in my mind.
02:41:52 MR. BARTON: We'll reserve our questions until
02:41:54 time of trial.
02:41:55 MR. MIKHAIL: We meaning all defendants or --
02:41:57 MR. BARTON: For at least for the Tobacco
02:41:59 Institute. And I believe I'm speaking on behalf of all

Page 91

02:42:02 defendants; is that correct, Mr. Tomlinson?
02:42:04 MR. TOMLINSON: Phillip Morris doesn't have any
02:42:05 questions.
02:42:08 MR. BLALOCK: Mr. McSpadden, you have the right to
02:42:10 read and sign this deposition if you would like or you can
02:42:13 waive that right. I would recommend that you look in that
02:42:16 camera and tell them you'll read and sign.
02:42:17 THE WITNESS: I'll read and sign.
02:42:19 MS. COY: Off the record at 02:48:20.
(The conclusion of the deposition of Vance McSpadden.)

Page 92

JURAT

I, Vance McSpadden, do hereby state under oath that I have read the above and foregoing deposition in its entirety and that the same is a full, true and correct transcription of my testimony so given at said time and place.

_____
Vance McSpadden

Subscribed and sworn to before me, the undersigned Notary Public in and for the State of Oklahoma by said witness, Vance McSpadden, on this _____ day of _____, 1998.

NOTARY PUBLIC, STATE OF OKLAHOMA
MY COMMISSION EXPIRES:_____

(JLM)

Page 93

CERTIFICATE

STATE OF OKLAHOMA } SS:
COUNTY OF OKLAHOMA }

I, Jody McAnally, CSR, RPR, RMR, do hereby certify that on October 8, 1998, at 9:00 a.m. at the law offices of Riggs, Abney, Neal, Turpen, Orbison & Lewis, Oklahoma City, Oklahoma, there came before me Vance McSpadden, who was duly sworn to testify the truth, the whole truth, and nothing but the truth; and that the foregoing 92 pages constitute a full, true, and correct transcript of the deposition of said witness on the date as indicated.

I do further certify that I am not counsel, attorney, or relative of either party, or otherwise interested in the event of this suit.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal at my office in Oklahoma City Oklahoma County, Oklahoma, this 13th day of October, 1998.

Jody Graham McAnally CSR, RPR, RMR
CSR No. 203.
Jody McAnally
Oklahoma Certified Shorthand Reporter
Certificate No. 00203
Exp. Date: December 31, 1998

http://legacy.library.ucsf.edu/tid/auq07a00/pdf
Support provided by the Industry Documents Library: www.industrydocuments.ucsf.edu/docs/shhl0001

ERRATA SHEET

DEPOSITION OF VANCE McSPADDEN

REPORTER: Jody McAnally, CSR, RPR, RMR

TAKEN ON: October 8, 1998

PAGE	LINE	IS	SHOULD BE

http://legacy.library.ucsf.edu/tid/auq07a00/pdf Digitized by the Internet Archive in 2014 http://www.industrydocuments.ucsf.edu/docs/shhl0001